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PATENT  
Docket No.: 016930-000816US  
Client Ref. No.: CJ01656KQ

TOWNSEND and TOWNSEND and CREW LLP

By: *Kimberly Hellett*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Heidrun Engler et al.

Application No.: 10/055,863

Filed: January 22, 2002

For: COMPOSITIONS AND METHODS  
FOR ENHANCING DELIVERY OF  
THERAPEUTIC AGENTS TO CELLS

Customer No.: 20350

Confirmation No.: 4929

Examiner: Elli Peselev

Art Unit: 1623

REQUEST FOR  
RECONSIDERATION OF PATENT  
TERM ADJUSTMENT  
DETERMINATION UNDER 37  
C.F.R. §1.705(b)

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.705(b), Applicants respectfully request reconsideration of the patent term adjustment determination. This request is accompanied by the fee set forth in §1.18(e) and a statement of facts as required under 37 C.F.R. §1.705(b)(2). This request is prompted by the recent court decision in *Wyeth v. Dudas* (Case No. 07-1492, D.D.C. 2008) which held that the periods of delay under 35 U.S.C. §154(b)(1)(A) and 35 U.S.C. §154(b)(1)(B) overlap only if they occur on the same calendar day or days.

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Assignees of the instant application note that a terminal disclaimer was filed on November 29, 2004, over the prior patent, US Patent 6,392,069 filed on July 8, 1998, and accordingly with an expiration date of July 8, 2018.


**Patent Term Adjustment Determination**

Applicants are entitled to 359 days of patent term adjustment, *i.e.*, [535 days ("A delay" + "B delay")] minus [176 days ("applicant delay")]. Applicants are also entitled to any period of adjustment under 37 C.F.R. §1.703(a)(6).

Please charge the fee set forth in 37 C.F.R. §1.18(e) (\$200.00) to Deposit Account No. 20-1430. Please charge any necessary additional fees or credit any overpayments to the Deposit Account No. 20-1430.

Based on the foregoing, Applicants respectfully request reconsideration of the patent term adjustment determination.

Respectfully submitted,

  
Frank J. Mycroft  
Reg. No. 46,946

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: (925) 472-5000  
Fax: (415) 576-0300  
FJM:lmf